

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 70, As Amended in the Senate

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO THE SEXUAL OFFENDER REGISTRATION ACT; AMENDING SECTION 18-8310, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE RELEASE OF A PERSON FROM REGISTRATION REQUIREMENTS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 18-8310, Idaho Code, be, and the same is hereby amended to read as follows:

18-8310. RELEASE FROM REGISTRATION REQUIREMENTS – EXPUNGEMENT. (1) Any person, other than a recidivist, an offender who has been convicted of an aggravated offense, or an offender designated as a violent sexual predator, may, after a period of ten (10) years from the date the person was released from incarceration or placed on parole, supervised release or probation, whichever is greater, petition the district court for a show cause hearing to determine whether the person shall be exempted from the duty to register as a sexual offender. In the petition the petitioner shall:

(a) Provide clear and convincing evidence that the petitioner is not a risk to commit a new violation for any violent crime or crime identified in section 18-8304, Idaho Code;

(b) Provide an affidavit indicating that the petitioner does not have a criminal charge pending nor is the petitioner knowingly under criminal investigation for any violent crime or crime identified in section 18-8304, Idaho Code;

(c) Provide proof of service of such petition upon the county prosecuting attorney for the county in which the application is made and upon the central registry; and

(d) Provide a certified copy of the judgment of conviction which caused the petitioner to report as a sexual offender.

(2) The district court may grant a hearing if it finds that the petition is sufficient. The court shall provide at least sixty (60) days' prior notice of the hearing to the petitioner, and the county prosecuting attorney and the central registry. The central registry may appear or participate as a party.

(3) The court may exempt the petitioner from the reporting requirement only after a hearing on the petition in open court and only upon proof by clear and convincing evidence and upon written findings of fact and conclusions of law by the court that:

(a) The court has reviewed the petitioner's criminal history and has determined that petitioner is not a recidivist, has not been convicted of an aggravated offense or has not been designated as a violent sexual predator; and

(b) The petitioner is not a risk to commit a new violation for any violent crime or crime identified in section 18-8304, Idaho Code.

(24) Concurrent with the entry of any order exempting the petitioner from the reporting requirement, the court may further order that any information regarding the petitioner be expunged from the central registry.